

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE ESTATE OF ROY DREISTADT, by His :	:	
Proposed Administrator, JANE VICTORS, :	:	
	:	
Plaintiff, :	:	22-cv-10376 (VSB)
	:	
-against- :	:	<u>ORDER</u>
	:	
MARY MANNING WALSH HOME, :	:	
	:	
Defendant. :	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

Defendant Mary Manning Walsh Home moves to stay this case pending the resolution of three appeals before the Court of Appeals for the Second Circuit: *Rivera-Zayas v. Our Lady of Consolation*, No. 21-2164, (2d. Cir. Sept. 9, 2021), *Leroy v. Hume*, Nos. 21-2158, 21-2159 (2d. Cir. Sept. 9, 2021), and *Solomon v. St. Joseph Hospital*, No. 21-2729 (2d. Cir. Oct. 28, 2021). Doc. 5. Plaintiff has not filed any papers taking a position on this request.

The resolution of *Rivera-Zayas*, *Leroy*, and *Solomon*, are connected to each other and to this case. The Court of Appeals is holding the consideration of *Rivera-Zayas* and *Leroy* in abeyance pending a decision in *Solomon*. *Rivera-Zayas*, No. 21-2164, Doc. 171; *Leroy*, Nos. 21-2158, Doc. 191. *Solomon* is proceeding as the Court of Appeals obtains additional briefing on jurisdictional issues. *Solomon*, No. 21-2729, Doc. 105. The jurisdictional issues in these cases are comparable to the ones here. Doc. 5, at 2.

Faced with similar circumstances, other courts in this District have stayed proceedings pending the resolution of these appeals. *See Cusimano v. Eastchester Rehab. and Health Ctr.*, No. 22-cv-6453 (DLC) (S.D.N.Y. July 29, 2022), Doc. 15; *Mitchell v. Parkview Operating Co.*,

No. 22-cv-2357 (NSR) (S.D.N.Y. Mar. 23, 2022), Doc. 9; *Jenkins v. Dewitt Rehab. And Nursing Ctr.*, No. 22-cv-5985 (PAE) (S.D.N.Y. July 13, 2022), Doc. 6. Accordingly, it is hereby

ORDERED that Defendant's motion to stay is GRANTED. This action is STAYED pending the resolution of *Rivera-Zayas*, No. 21-2164, *Leroy*, Nos. 21-2158, 21-2159, and *Solomon*, No. 21-2729, by the Court of Appeals.

IT IS FURTHER ORDERED that within one week of the issuance of a decision resolving the last of these appeals, the parties shall submit a 3-page joint letter indicating that decision's bearing on this case. If a decision is issued in any of these cases that either party believes moots the purpose of this stay, that party may file a request to lift the stay prior to the resolution of all three cases.

The Clerk of Court is respectfully directed to terminate the motion at Doc. 5.

Dated: January 3, 2023
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style. The first letter "V" is large and stylized, with a long vertical stroke. The last letter "k" has a long, sweeping horizontal stroke that extends to the right.

Vernon S. Broderick
United States District Judge